

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DENNIS DIMON
Plaintiff

v.

Civil Action No. 05-11073-NG

METROPOLITAN LIFE
INSURANCE COMPANY, KEMPER
INSURANCE COMPANY,
MORGAN STANLEY DW, INC.,
MICHAEL B. LATTI, LATTI
ASSOCIATES, LATTI & ANDERSON
LLP,
Defendants

**DEFENDANT KEMPER INSURANCE COMPANY'S MOTION FOR
RECONSIDERATION OF THE COURT'S JANUARY 31, 2008
MEMORANDUM AND ORDER**

Defendant, Kemper Insurance Company ("Kemper") hereby moves for reconsideration of the Court's January 31, 2008 Memorandum and Order (the "Order") insofar as the Order denies Kemper's motion for summary judgment on Plaintiff's breach of contract claim against Kemper.

Kemper respectfully submits that the Order contains clear errors of law, and that there is no disputed issue of material fact that prevents the entry of summary judgment in Kemper's favor on Plaintiff's breach of contract claim, on each of two separate and independent grounds:

- Plaintiff's purported breach of contract claim against Kemper is barred by any potentially applicable statute of limitations, and the reasoning set forth in the Order for rejecting this defense is clearly in error; and

- Plaintiff cannot establish a breach of contract claim against Kemper, and no party has supported its purported arguments against Kemper with actual evidence, as is required to render an issue of fact “disputed” for summary judgment purposes.

WHEREFORE, for the reasons set forth in the attached Memorandum of Law, Kemper respectfully requests that the Court (1) reconsider the Order insofar as the Order denies Kemper’s motion for summary judgment on Plaintiff’s breach of contract claim against Kemper, and (2) grant Kemper’s motion for summary judgment on Plaintiff’s breach of contract claim against Kemper.

Respectfully submitted,

KEMPER INSURANCE COMPANY

by its attorneys,

/s/ Anthony B. Fioravanti

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REQUEST FOR ORAL ARGUMENT

Pursuant to L.R. 7.1(D), counsel for Kemper respectfully requests that the Court allow oral argument on the issues presented by Kemper’s motion for reconsideration. Counsel believes that oral argument may assist the Court in making its determination on those issues.

Certification Pursuant To Local Rule 7.1

The above-signed certifies that the parties have conferred in good faith in attempt to resolve the issues raised herein in order to resolved or narrow the issue. Such conferences were held by telephone on February 14, 2008.

Dated: February 14, 2008

Certification of Service

I hereby certify that a true and accurate copy of the foregoing document was filed via the ECF system and will be served electronically through that system upon Counsel of Record on February 14, 2008.

/s/ Anthony B. Fioravanti

Anthony B. Fioravanti